United Nations A/68/219–S/2013/464

General Assembly
Security Council

Distr.: General
2 August 2013

Original: English

**General Assembly**
**Sixty-eighth session**
Item 132 of the provisional agenda*
**International Residual Mechanism for Criminal Tribunals**

**Security Council**
**Sixty-eighth year**

# International Residual Mechanism for Criminal Tribunals

## Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the members of the Security Council the first annual report of the International Residual Mechanism for Criminal Tribunals, submitted by the President of the Mechanism in accordance with article 32 (1) of the statute of the Mechanism (see Security Council resolution 1966 (2010), annex 1) which states that:

> The President of the Mechanism shall submit an annual report of the Mechanism to the Security Council and to the General Assembly.

* A/68/150.

13-41658 (E) 280813

Please recycle

**Letter of transmittal**

1 August 2013

I have the honour to submit the first annual report of the International Residual Mechanism for Criminal Tribunals, dated 1 August 2013, to the General Assembly and the Security Council, pursuant to article 32 (1) of the statute of the Mechanism.

(*Signed*) Theodor **Meron**
President

President of the General Assembly
United Nations
New York

President of the Security Council
United Nations
New York

# First Annual Report of the International Residual Mechanism for Criminal Tribunals

*Summary*

The present annual report outlines the activities of the International Residual Mechanism for Criminal Tribunals from 1 July 2012 to 30 June 2013.

On 22 December 2010, the Security Council, by resolution 1966 (2010), established the Mechanism to continue the jurisdiction, rights and obligations and carry out the essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. These functions include providing protection to witnesses, supervising the enforcement of sentences, and managing archives. The Mechanism is also mandated to conduct certain judicial activities.

On 1 July 2012, the Mechanism opened its first branch, located in Arusha, United Republic of Tanzania, and assumed responsibility for a number of essential functions of the International Criminal Tribunal for Rwanda. Over the course of the reporting period, the Mechanism also developed its legal and regulatory framework through the issuance of Practice Directions and other policies, recruited a small number of staff members in keeping with its specified functions, and engaged with Member States on a range of issues.

The President of the Mechanism supervised many issues relating to the establishment and management of the Mechanism, coordinated the work of the Chambers, and decided applications for early release and a request for review of an administrative decision. The Mechanism's Appeals Chamber, the duty judge in Arusha, and the President in his role as pre-appeal judge in the Mechanism's first appeal from judgement also rendered a number of orders and decisions.

The Office of the Prosecutor focused on the activities in its remit, including the tracking of the remaining fugitives indicted by the International Criminal Tribunal for Rwanda, the rendering of assistance to national authorities, and the prosecution of the Mechanism's first appeal.

The Registry was responsible for providing and coordinating a wide range of administrative and judicial support to the Mechanism. In addition, among other things, it ensured the continued provision of protection and support services to witnesses, worked on various aspects of the enforcement of sentences, and undertook activities related to archives management.

During the reporting period, all organs of the Mechanism made preparations for the launch of its second branch, located in The Hague, on 1 July 2013.

# Contents

| | | Page |
|---|---|---|
| I. | Introduction | 5 |
| II. | Establishment and activities of the Mechanism | 5 |
| | A. Mandate | 5 |
| | B. Organization and principals | 6 |
| | C. Establishment | 7 |
| | D. Coordination Council | 9 |
| | E. Rules Committee | 9 |
| | F. Coordination with the Tribunals | 9 |
| III. | Activity of the President and the Chambers | 10 |
| | A. Principal activities of the President | 10 |
| | B. Principal activities of the single judge/duty judge | 10 |
| | C. Principal activities of the Appeals Chamber | 10 |
| IV. | Activity of the Office of the Prosecutor | 11 |
| | A. Establishment and organization of the Office | 11 |
| | B. Fugitive tracking | 12 |
| | C. Assistance to national jurisdictions | 12 |
| | D. Preservation and management of the archives | 13 |
| | E. Monitoring of cases transferred to national jurisdictions | 13 |
| V. | Activities of the Registry | 13 |
| | A. Support for judicial activities | 14 |
| | B. Support for other mandated activities | 14 |
| VI. | Conclusion | 17 |

# I. Introduction

1. The first annual report of the International Residual Mechanism for Criminal Tribunals outlines the establishment and the activities of the Mechanism for the period from 1 July 2012 to 30 June 2013.

2. On 1 July 2012, the Mechanism opened its branch in Arusha, United Republic of Tanzania, and assumed certain specified responsibilities and functions from the International Criminal Tribunal for Rwanda. During the reporting period, and pursuant to its mandate, the Mechanism has conducted a number of judicial activities and performed functions ranging from the protection of witnesses to responding to requests for assistance from national jurisdictions. The Mechanism has also engaged in extensive preparation for the launch on 1 July 2013 of its branch in The Hague, at which point the Mechanism assumes the corresponding set of responsibilities and functions from the International Tribunal for the Former Yugoslavia. Information about the launch and activities of the Hague branch will be included in the next annual report of the Mechanism.

# II. Establishment and activities of the Mechanism

## A. Mandate

3. On 22 December 2010, the Security Council, by resolution 1966 (2010), established the Mechanism to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. According to the resolution, the Mechanism continues the jurisdiction, rights and obligations, and essential functions of the two Tribunals.

4. In creating the Mechanism, the Security Council reaffirmed its determination to combat impunity for those responsible for serious violations of international humanitarian law, and underlined the necessity that all persons indicted by the two Tribunals be brought to justice. Accordingly, the Mechanism's mandate includes the trial of fugitives who are among the most senior leaders suspected of being the most responsible for crimes. Since the adoption of the resolution, all fugitives from the International Tribunal for the Former Yugoslavia have been apprehended and transferred to the Tribunal for trial. Among persons indicted by the International Criminal Tribunal for Rwanda, nine individuals are still at large. Three of the nine are expected to be tried by the Mechanism; the cases of the remaining six have been referred to Rwanda for trial.

5. The Mechanism has also been mandated to conduct a number of other judicial activities, consistent with the provisions of its statute and the dates specified in the transitional arrangements. These activities include retrials of cases completed by the two Tribunals, appeals of their judgements and sentences, reviews of their proceedings, and contempt of court and false testimony cases.

6. In addition, the Mechanism has been tasked with assuming the following functions from the two Tribunals, in accordance with its statute and the transitional arrangements: protection of victims and witnesses who have testified in Tribunal or Mechanism cases; management of the archives of the Tribunals and the Mechanism; supervision of the enforcement of Tribunal sentences, including decisions on pardon

or commutation of sentences; responding to requests for assistance from national authorities in relation to the investigation or prosecution of those responsible for serious violations of international humanitarian law in the countries of the former Yugoslavia and Rwanda; and monitoring cases referred to national courts by the two Tribunals and the Mechanism, with the ability to revoke cases where the conditions of referral are no longer being met and it is in the interests of justice to do so.

7. In establishing the Mechanism, the Security Council emphasized that it should be a small, temporary and efficient structure whose functions and size would diminish over time. The Mechanism is mandated to operate for an initial period of four years, and subsequently for periods of two years following reviews of its progress, unless the Council decides otherwise.

## B. Organization and principals

8. The statute of the Mechanism provides for two branches: one branch for the International Criminal Tribunal for Rwanda, located in Arusha, United Republic of Tanzania, and one branch for the International Tribunal for the Former Yugoslavia, located in The Hague. The Arusha branch was mandated to commence activities on 1 July 2012, and the Hague branch was mandated to commence activities one year later, on 1 July 2013.

9. The Mechanism consists of three organs, namely, the Chambers, comprising a Trial Chamber for each branch of the Mechanism and an Appeals Chamber common to the two branches of the Mechanism; the Prosecutor, common to the two branches of the Mechanism; and the Registry, common to the two branches of the Mechanism, which provides administrative services for the Mechanism, including the Chambers and the Prosecutor.

10. Each organ is headed by a full-time or permanent principal, common to the two branches.

11. The President of the Mechanism is Judge Theodor Meron. President Meron was elected as a Mechanism judge by the General Assembly and subsequently appointed as the President. The President serves as the head of the Mechanism, and is responsible for, among other things, presiding over plenaries, coordinating the work of the Chambers, and supervising the activities of the Registry. President Meron is the Mechanism's only full-time judge.

12. The Prosecutor for the Mechanism is Hassan Bubacar Jallow, who was appointed in 2012 to a four-year term. The Prosecutor is responsible for the investigation and prosecution of persons indicted by the Tribunals as well as individuals who have knowingly and wilfully interfered in the administration of justice or given false testimony before the Mechanism, the International Criminal Tribunal for Rwanda, or the International Tribunal for the Former Yugoslavia.

13. The Registrar for the Mechanism is John Hocking, who was appointed in 2012 to a four-year term. The Registrar is responsible for the administration and servicing of the two branches of the Mechanism.

14. In an arrangement that promotes efficiency and coordination, and consistent with the transitional arrangements, the President, the Prosecutor and the Registrar are all currently serving in two positions. President Meron is also President of the

International Tribunal for the Former Yugoslavia, Prosecutor Jallow is the serving Prosecutor of the International Criminal Tribunal for Rwanda, and Registrar Hocking is concurrently the Registrar for the International Tribunal for the Former Yugoslavia.

15. The statute of the Mechanism provides for a roster of 25 independent judges. These judges were elected by the General Assembly on 20 December 2011 from a list submitted by the Security Council and following nominations from States Members of the United Nations. In selecting the judges, particular account was taken of candidates' experience as judges of the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia, in order to promote efficiency. As at 18 May 2012, all 25 judges have been sworn in and are capable of assuming Mechanism duties as and when called to do so.

16. Pursuant to the statute, the judges remain on a roster until called by the President to exercise their functions. Judges who have been called to exercise their functions are to be present in Arusha or The Hague only as required; insofar as possible, the judges will carry out their functions remotely. The judges are not remunerated for being on the roster, but only for the days on which they are called to perform judicial duties. Mechanism judges who are concurrently judges of the Tribunals, and thus already receive judicial salaries, are not compensated for their Mechanism work.

17. The roster of judges is composed as follows: Judges Carmel Agius (Malta), Aydin Sefa Akay (Turkey), Jean-Claude Antonetti (France), Florence Arrey (Cameroon), Solomy Balungi Bossa (Uganda), Ivo Nelson de Caires Batista Rosa (Portugal), José Ricardo de Prada Solaesa (Spain), Ben Emmerson (United Kingdom of Great Britain and Northern Ireland), Christoph Flügge (Germany), Burton Hall (Bahamas), Vagn Prüsse Joensen (Denmark), Gberdao Gustave Kam (Burkina Faso), Liu Daqun (China), Susana Gatti Santana (Uruguay), Joseph E. Chiondo Masanche (United Republic of Tanzania), Theodor Meron (United States of America), Bakone Justice Moloto (South Africa), Lee G. Muthoga (Kenya), Aminatta Lois Runeni N'gum (Gambia), Prisca Matimba Nyambe (Zambia), Alphons Orie (Netherlands), Seon Ki Park (Republic of Korea), Mparany Mamy Richard Rajohnson (Madagascar), Patrick Lipton Robinson (Jamaica) and William Hussein Sekule (United Republic of Tanzania).

## C. Establishment

18. As mandated, the Mechanism commenced operations at its Arusha branch on 1 July 2012, assuming certain functions inherited from the International Criminal Tribunal for Rwanda.

### 1. Legal and regulatory framework

19. The Mechanism has developed a structure to govern its activities, mindful of the need to develop rules, procedures and policies that harmonize and build upon the best practices of the two Tribunals.

20. In accordance with article 13 of the statute, on 8 June 2012, the Mechanism judges adopted the Rules of Procedure and Evidence. The Rules were developed by the International Criminal Tribunal for Rwanda and the International Tribunal for

the Former Yugoslavia in conjunction with the Office of Legal Affairs and incorporated comments from the judges, Offices of the Prosecutors, Registries, and Associations of Defence Counsel of both Tribunals, as well as from members of the Security Council.

21. In addition, the Mechanism has adopted key Practice Directions, directives and policies on topics including the filing of motions and briefs before the Mechanism; the assignment and remuneration of defence counsel; the provision of protection and support services to witnesses; the procedures for determining applications for pardon and early release; and the procedure for designating States in which a convicted person will serve his or her sentence. The Mechanism has also adopted standards related to archives and records.

## 2. Administration, staffing and facilities

22. During the reporting period, administrative services — such as human resources, finance, budget, procurement, logistics, security and information technology services — have been provided to the Mechanism by the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia, under the coordination of the Registrar of the Mechanism.

23. In October 2012, in preparation for the decreasing capabilities of the two Tribunals to continue to support the Mechanism because of their progressive downsizing, the Tribunals and the Mechanism reached consensus on basic requirements for a single, small, self-standing administration for the Mechanism, which will be divided between and will service the two branches. The Mechanism Registry has developed a road map and a list of actions for a step-by-step implementation of this self-standing administration.

24. Pursuant to Security Council resolution 1966 (2010), the Mechanism is to have a small number of staff commensurate with its specified functions. The prompt, fair and transparent recruitment of this small staffing component continues to be an administrative priority. Under the coordination of the Registrar, recruitment has, to the extent possible, been conducted by mixed Mechanism and Tribunal interview panels and central review bodies, with appropriate geographical and gender balance representation. The human resources staff of both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia have shared the technical burden of this exercise.

25. By the end of the reporting period, some 86 per cent of Mechanism positions available from 1 July 2012 have either been filled or are under recruitment. Staff who have joined the Mechanism include nationals of the following Member States: Albania, Australia, Belgium, Burundi, Cameroon, Canada, China, Colombia, Democratic Republic of the Congo, France, India, Italy, Kenya, Mali, Nepal, Netherlands, New Zealand, Rwanda, Senegal, Serbia, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Uganda, United Kingdom, United Republic of Tanzania, United States of America and Zimbabwe. Approximately 85 per cent of the staff of the Mechanism have been recruited from the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia.

26. The Mechanism has reached the gender parity goals set by the Secretary-General, with a 50 per cent gender rate in the Professional category, exceeding the

current 41 per cent average at the Professional level across the United Nations as a whole. A gender and sexual harassment focal point has also been appointed.

27. The Arusha branch is currently co-located with the International Criminal Tribunal for Rwanda, but is expected to move to its new premises in 2016. On 16 January 2013, the Secretary-General submitted his second report on the construction of the new premises (A/67/696). The General Assembly approved the construction of the facility as designed and authorized the level of funding requested by the Mechanism (resolution 67/244 B). The project continues to advance, and the procurement process of retaining an architectural firm is under way. Throughout the project, the Mechanism has worked closely with and benefited greatly from the technical advice of the Office of Central Support Services of the Secretariat. The Mechanism is grateful for the cooperation of the Government of the United Republic of Tanzania, which has offered land and connection to facilities, such as electricity, water and a drainage system, at no cost.

## D. Coordination Council

28. Pursuant to Mechanism rule 25, the Mechanism Coordination Council is composed of the President, the Prosecutor and the Registrar, and meets on an ad hoc basis to coordinate the activities of the three organs of the Mechanism. The Council has met to discuss, inter alia, issues relating to the establishment of the Mechanism, the transfer of functions from the two Tribunals, budgetary matters, the regulatory framework, and other matters of common concern. The Coordination Council has also held a number of joint meetings with the Coordination Council of the International Criminal Tribunal for Rwanda, to discuss cross-cutting issues relating to the provision of services, budgetary matters, and the transition of functions to the Arusha branch of the Mechanism.

## E. Rules Committee

29. The President has assigned two Mechanism judges to compose the Mechanism Rules Committee, Judge Vagn Joensen and Judge Carmel Agius, who are chairs of the Rules Committees of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, respectively. The Mechanism Rules Committee has received a number of proposals for amendments to the Rules.

## F. Coordination with the Tribunals

30. During the reporting period, the Mechanism has coexisted with both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and has benefited greatly from its two predecessor institutions, receiving from them significant operational and administrative support. The staff of the three institutions have also worked closely and cooperated on a regular basis, sharing institutional knowledge, expertise and lessons learned.

# III. Activity of the President and the Chambers

## A. Principal activities of the President

31. The President, in his capacity as the head of the Mechanism, has been deeply involved in the many issues relating to the establishment and management of the Mechanism. He has developed and adopted Practice Directions, held regular meetings with the Registrar on operational and managerial matters, and represented the Mechanism in a wide variety of forums.

32. As mandated by the statute, the President has also submitted two six-monthly reports on the progress of the Mechanism to the Security Council, and he has twice briefed the Council on the work of the Mechanism, in December 2012 and June 2013.

33. The President made his first official visit to Rwanda in December 2012, where he met with Rwandan authorities and discussed issues relating to the work of the Mechanism. He has also provided briefings on the activities of the Mechanism to the diplomatic communities in the Netherlands, Rwanda and the United Republic of Tanzania.

34. In his judicial capacity, the President has issued two decisions on applications for early release, received from Paul Bisengimana and Omar Serushago. He has issued one decision on a request for the review of an administrative decision by the Registrar of the Mechanism. The President has also assigned a number of matters to a single judge and to the Appeals Chamber. In addition, the President has presided over the Appeals Chamber, and is serving as pre-appeal judge on the Mechanism's first appeal from judgement, in the case of *The Prosecutor v. Augustin Ngirabatware*.

## B. Principal activities of the single judge/duty judge

35. On 2 July 2012, the President assigned Judge Vagn Joensen as duty judge at the Arusha branch. Judge Joensen is also the President of the International Criminal Tribunal for Rwanda and, as a result, does not require remuneration for his Mechanism duties.

36. During the reporting period, Judge Joensen, in his capacity as Mechanism duty judge or single judge, has dealt with a number of motions, including requests to amend indictments and to reissue arrest warrants on behalf of the Mechanism for three fugitives from the International Criminal Tribunal for Rwanda, Augustin Bizimana, Félicien Kabuga and Protais Mpiranya. He has also considered allegations of contempt arising out of the case of *The Prosecutor v. Augustin Ngirabatware*. In addition, Judge Joensen has issued six decisions on requests for variation of witnesses' protective measures for the use of Rwanda Tribunal materials in proceedings in national jurisdictions.

## C. Principal activities of the Appeals Chamber

37. During the reporting period, the Appeals Chamber has been seized of one appeal from judgement, concerning the case of Augustin Ngirabatware. A trial

chamber of the International Criminal Tribunal for Rwanda convicted Mr. Ngirabatware, a former Minister of Planning in Rwanda, of genocide, direct and public incitement to commit genocide, and rape as a crime against humanity on 20 December 2012 and sentenced him to 35 years of imprisonment.[1] Mr. Ngirabatware filed his notice of appeal against the trial judgement on 9 April 2013 and the briefing is in progress.

38. In addition, the Appeals Chamber has been seized of one appeal challenging a decision of the International Criminal Tribunal for Rwanda to refer the case of Phénéas Munyarugarama to Rwanda for trial and several other requests and appeals. The Appeals Chamber has rendered one decision in the *Munyarugarama* matter, one interlocutory appeal decision, one decision related to a post-appeal request, and seven pre-appeal orders and decisions.

# IV. Activity of the Office of the Prosecutor

## A. Establishment and organization of the Office

39. The Arusha branch of the Office of the Prosecutor is fully functional and has, since the commencement of operations on 1 July 2012, been discharging its mandate with respect to its various activities. These include the tracking of fugitives, the rendering of assistance to national authorities, the monitoring of cases referred to national jurisdictions, the updating of fugitive files in anticipation of arrest, and the prosecution of an appeal and related litigation before the Mechanism Appeals Chamber.

40. Throughout the reporting period, the Office of the Prosecutor has benefited immensely from the support of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda in ensuring a smooth transition of functions and activities. Similarly, the Prosecutor has received the cooperation of the principals of the International Tribunal for the Former Yugoslavia and the Mechanism in planning for the commencement of the Hague branch of the Office of the Prosecutor on 1 July 2013 and ensuring a smooth transition of functions and responsibilities.

### 1. Staffing

41. The 14 core staff of the Arusha branch of the Office of the Prosecutor were recruited and assumed office during the reporting period. The staff comprise three Investigators, one Crime Analyst, and two Language Assistants, all based in Kigali, as well as one Senior Legal Officer, one Legal Officer, one Legal Adviser, one Administrative Officer, one Documents Control Assistant and two Administrative Assistants stationed in Arusha.

42. In addition, the Prosecutor has designated three other prosecution staff of the International Criminal Tribunal for Rwanda to formally double-hat for the Mechanism during their respective tenures at the Tribunal. These include a Special Assistant to the Prosecutor, an Investigator and a Documents Control Assistant. In order to ensure a smooth transition of functions and activities this staff complement has been supported, where necessary, by 52 Professional double-hatting staff

[1] The written judgement was issued on 21 February 2013.

members of the Tribunal designated by the Prosecutor under article 14 (3) of the statute, as an interim measure.

43. The Prosecutor has recruited an ad hoc appeals team to assume primary responsibility for handling the appeal from judgement and sentence in the case of *Ngirabatware*. The team consists of one Senior Appeals Counsel, one Appeals Counsel, one Assistant Appeals Counsel and one Associate Appeals Counsel.

44. The Prosecutor is also preparing a roster of potential staff for his office, to be recruited in the event of an arrest and subsequent trial of any or all of the three fugitives who are designated to be tried by the Mechanism.

### 2. Preparations for the Hague Office

45. During the reporting period, the Office of the Prosecutor also began preparation for the establishment of the Hague branch of the Office on 1 July 2013. The Prosecutor commenced the planning and preparatory work in consultation with senior management of the Office of the Prosecutor and the Registry of the International Tribunal for the Former Yugoslavia. This involved initiating the recruitment process for the prosecution core staff, agreeing on the double-hatting support expected by the Mechanism Office of the Prosecutor from the Tribunal Office of the Prosecutor in the current biennium, and determining the workload and resource requirements for the next biennium.

## B. Fugitive tracking

46. On 1 July 2012, the responsibility for tracking the remaining fugitives from the International Criminal Tribunal for Rwanda devolved to the Mechanism. The arrest and prosecution of three fugitives, namely, Augustin Bizimana, Félicien Kabuga and Protais Mpiranya, is a priority of the Office of the Prosecutor. The Office of the Prosecutor has intensified efforts at tracking these fugitives, placing particular focus on the Great Lakes and southern African regions. The Office of the Prosecutor continues to receive the support of INTERPOL, the United States Department of State through its War Crimes Rewards Program, international organizations, and a number of Member States.

47. The Office of the Prosecutor is also required under article 28 (3) of the statute to render assistance, where appropriate, in the tracking of the remaining six fugitives from the International Criminal Tribunal for Rwanda, whose cases have been referred to Rwanda. The Mechanism website now features a page entitled "Searching for the fugitives", which includes contact information for the Office of the Prosecutor and a link to the webpage of the United States War Crimes Rewards Program.

## C. Assistance to national jurisdictions

48. At the Arusha branch, the responsibility for servicing foreign requests for assistance was formally transferred to the Mechanism on 1 July 2012. During the reporting period, the Office of the Prosecutor has responded to 92 requests for assistance from 16 Member States and international organizations.

49. The Prosecutor will shortly issue a regulation governing requests for assistance to the Office of the Prosecutor, and will make guidelines available on the Mechanism website to assist national authorities seeking to access confidential material held by the Tribunals or the Mechanism, in accordance with the Mechanism's Practice Direction on the procedure for the variation of protective measures pursuant to rule 86 (H).

### D. Preservation and management of the archives

50. On 2 July 2012, the Prosecutor handed over to the Mechanism Registrar an archive of 27 completed prosecution case files. Materials from the Office of the Prosecutor of the International Criminal Tribunal for Rwanda that are no longer in active use will be transferred to the Mechanism archives on an ongoing basis. The remainder of the archives of the Office of the Prosecutor of that Tribunal are expected to be transferred to the Mechanism upon completion of all the Tribunal appeals and related litigation. In the meantime, the Mechanism Office of the Prosecutor has full access to the active records of its counterpart at the International Criminal Tribunal for Rwanda.

### E. Monitoring of cases transferred to national jurisdictions

51. On 1 July 2012 the Office of the Prosecutor assumed certain monitoring functions for cases transferred by the International Criminal Tribunal for Rwanda to national jurisdictions. The monitors appointed by the Prosecutor of the Tribunal to monitor the cases of *Bucyibaruta* and *Munyeshyaka* transferred to France in 2007 and the case of *Uwinkindi* transferred to Rwanda in 2012 have been reporting to the Mechanism Prosecutor.

52. In respect of the cases transferred to France, inquiries are now reported to have substantially progressed, and it is expected that the cases will be expeditiously concluded once trials commence. Similarly, the *Uwinkindi* case referred to Rwanda is before the Kigali High Court. Preliminary proceedings are in progress and, subject to the determination of pre-trial applications made by the accused, the trial proceedings are anticipated to be completed expeditiously.

53. Following the decision on 3 May 2013 of the Appeals Chamber of the International Criminal Tribunal for Rwanda upholding the referral of the case of *Munyagishari* to Rwanda for trial, the Prosecutor appointed a monitor to observe the proceedings in that case.

## V. Activities of the Registry

54. The Registry is responsible for the provision of legal, judicial, policy, diplomatic and administrative support to all Mechanism operations.

55. The Registry is at the service of a wide range of individuals and entities, including judges and parties, Member States and international organizations, witnesses and convicted persons. As a result, the Registry provides assistance to national jurisdictions, offers protection and support services to witnesses, monitors various aspects of the enforcement of sentences, administers the Mechanism's legal

aid scheme, makes arrangements for the monitoring of cases referred to national jurisdictions for trial, explains the mandate of the Mechanism, and manages archives and records. In addition, the Registry coordinates or provides the entire spectrum of administrative services from human resources to security, procurement to finance and budget, information technology and general services to health services. The Registry also plays a significant role in the Mechanism's policymaking and its management.

56. The Registry has played a key role in the commencement of the Arusha branch and the preparations for the opening of the Hague branch. It has contributed to a smooth transition by ensuring that core functions are transferred to the Mechanism without gaps in the provision of services, producing governance documents, and engaging in targeted awareness-raising campaigns among interested groups and entities.

## A. Support for judicial activities

57. To enable the Mechanism to conduct its judicial activities, the Registrar has issued a number of governance instruments relating to the assignment and remuneration of defence counsel as well as to judicial filings.

58. The Registry has also supported judicial activities by processing over 7,000 pages of judicial filings, assigning and remunerating defence teams, and providing translations of correspondence and judicial documents.

59. To ensure that the Mechanism is able to rapidly expand its staffing component in the event of sudden judicial activity, for instance following the capture of a fugitive, the Registry is coordinating the creation of rosters of qualified potential staff from both inside and outside the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. This approach complies with the United Nations rules on staff selection. A number of ad hoc staff have already been recruited to assist with ongoing judicial activity.

## B. Support for other mandated activities

### 1. Witness support and protection

60. Pursuant to its statute and the transitional arrangements, on 1 July 2012, the Mechanism became responsible for witness support and protection functions in relation to thousands of protected witnesses who have testified in cases completed by the International Criminal Tribunal for Rwanda.

61. The Arusha branch of the Witness Support and Protection unit continued to provide the same level of services previously offered by the Tribunal, while streamlining their provision and improving their efficiency. For instance, the Witness Support and Protection unit has conducted a survey among witnesses in Rwanda to ensure that such services meet the actual needs of witnesses. In addition, it has developed strategies that are currently being implemented to further strengthen the management and safekeeping of confidential witness information.

62. During the reporting period, the Witness Support and Protection unit has handled protection issues not only in Rwanda but also in the Great Lakes region,

from urban centres to refugee camps. It has continued to collaborate closely with the relevant authorities to ensure prompt and effective threat assessments, and to coordinate responses to witness security concerns, consistent with judicial protection orders.

### 2. Archives and records management

63. Under article 27 of its statute, the Mechanism is responsible for the preservation and management of, and access to, the archives of the two Tribunals. Pursuant to the statute, the archives of the International Criminal Tribunal for Rwanda are to be located in Arusha, and those of the International Tribunal for the Former Yugoslavia in The Hague.

64. The archives of the two Tribunals constitute an unparalleled collection of information regarding the conflicts in Rwanda and the former Yugoslavia. They consist of approximately 15,000 linear metres of physical materials, nearly three petabytes of data, and tens of thousands of hours of audiovisual recordings.

65. The Mechanism Archives and Records Section has offered guidance to the Tribunals in the preparation of their records for transfer to the custody of the Mechanism. The Section has assumed responsibility for the central records centre of the International Tribunal for the Former Yugoslavia. In Arusha, the physical custody of the records of the International Criminal Tribunal for Rwanda remains with the Tribunal, pending the completion of interim record centres.

66. The Mechanism Archives and Records Section has also engaged in the review and development of policies and guidelines on various aspects of record management, including the operations of record centres. In addition, it has begun investigating the technical requirements for a trusted digital repository for the preservation of the digital archives, in order to facilitate both their long-term preservation and access for current and future generations.

### 3. Enforcement of sentences

67. Pursuant to its statute, the Mechanism on 1 July 2012 assumed jurisdiction over the enforcement of sentences pronounced by the International Criminal Tribunal for Rwanda.

68. The Arusha branch of the Registry began to review enforcement of sentence agreements previously entered into by the International Criminal Tribunal for Rwanda (and which apply *mutatis mutandis* to the Mechanism) in order to ensure that they meet the needs of the Mechanism. The Registry has also begun exploring the possibility of entering into enforcement of sentence agreements with additional Member States. The Mechanism is grateful to those Member States that have expressed an interest in discussing the possibility of entering into an enforcement of sentence agreement.

69. In November 2012, the Mechanism engaged the services of an independent expert in prison management to assess the needs of the prisons in Benin and Mali that are enforcing sentences of the International Criminal Tribunal for Rwanda and to develop context-based recommendations. Many of those recommendations are currently being implemented.

70. The Mechanism has also regularly sought advice from the Department of Safety and Security and the designated official in Mali regarding the security situation in Mali, where over half of the sentences pronounced by the International Criminal Tribunal for Rwanda are currently being enforced.

### 4. Assistance to national jurisdictions

71. During the reporting period, the Registry at the Arusha branch facilitated requests for assistance from national authorities conducting investigations, prosecutions and trials of individuals charged in relation to the genocide in Rwanda. For example, the Registry obtained waivers of protective measures from witnesses, handled requests to question detainees and, upon judicial authorization, retrieved and transmitted confidential material requested by national authorities.

### 5. Monitoring of referred cases

72. In accordance with the mandate of the Mechanism to monitor cases referred to national courts by the International Criminal Tribunal for Rwanda, as set out in article 6 (5) of the statute, the Registry has approached international and regional organizations to assist with the monitoring of the cases referred by the Tribunal to Rwanda (including *Uwinkindi*) as well as the two cases referred to France (*Bucyibaruta* and *Munyeshyaka*). Pending the conclusion of the discussions and the establishment of monitoring arrangements, the Mechanism has interim monitoring arrangements in place, thanks to the assistance of the Tribunal. Public monitoring reports are posted on the Mechanism website.

### 6. External relations and information-sharing

73. During the reporting period, the Registry has engaged extensively with a number of Member States in order to carry out its mandate with respect to functions such as the enforcement of sentences, monitoring of referred cases, and protection of witnesses. In particular, the Mechanism has engaged with the Government of Rwanda on a number of issues, and the Registrar undertook missions to Kigali to facilitate this cooperation. A similar policy of engagement and cooperation with the States of the former Yugoslavia has been adopted in anticipation of the opening of the Hague branch.

74. The Registry launched the Mechanism's website (unmict.org) in tandem with the opening of its Arusha branch. In its first year, the website has received over 100,000 visitors. The website explains the Mechanism's mandate and provides information about its operations in four languages (English, French, Kinyarwanda and Bosnian/Croatian/Serbian), to ensure that this information is more accessible to individuals in Rwanda and the former Yugoslavia.

75. Over the past year, the Mechanism has also shared its experience and best practices during a capacity-building workshop with a delegation from the Kenya Witness Protection Agency. It also undertook a series of presentations and prepared detailed correspondence to promote awareness among Member States, international organizations, and other affected parties regarding the establishment and mandate of the Mechanism.

# VI. Conclusion

76. Consistent with resolution 1966 (2010) and its statutory mandate, the Mechanism became operational on 1 July 2012 with the commencement of the Arusha branch. It was a complex process. Preparation by Mechanism officials, and the extensive cooperation and assistance received from the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia, and other entities, including the Office of Legal Affairs, helped to ensure a smooth start-up. The extensive preparations made for the launch of the Hague branch on 1 July 2013 were designed to ensure a similar result.

77. During its first year of existence, the Mechanism has been engaged in fulfilling all aspects of its mandate, from conducting judicial activities to performing essential functions such as ensuring the protection of witnesses. Moving into its second year of operation, the Mechanism will continue to build upon the work of its predecessors and carry out its mandated mission.